

SENATE BILL No. 422

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-37.

Synopsis: Court security fees and funds. Requires: (1) the clerk of a circuit court; and (2) the clerk of a city or town court; to collect a court security fee of \$2 in each action in which a person is required to pay a criminal costs fee or a civil costs fee. Requires the clerks to distribute 100% of the court security fees collected to the auditor of state. Requires the auditor of state to transfer the court security fees to each county. Provides that the court security fees are to be: (1) distributed equally among the counties; and (2) deposited in each county's court security fund. Establishes a court security fund in each county to pay for the costs of installing, operating, maintaining, and upgrading security measures, plans, procedures, and systems in and around: (1) courtrooms; and (2) buildings that contain courtrooms; located in the county. Makes an appropriation.

Effective: July 1, 2015.

Grooms

January 12, 2015, read first time and referred to Committee on Judiciary.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 422

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-37-5-33 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2015]: **Sec. 33. In each action in which a person is required to**
4 **pay:**
5 **(1) a criminal costs fee under IC 33-37-4-1; or**
6 **(2) a civil costs fee under IC 33-37-4-4;**
7 **the clerk shall collect a court security fee of two dollars (\$2).**
8 SECTION 2. IC 33-37-7-2, AS AMENDED BY P.L.284-2013,
9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 2. (a) The clerk of a circuit court shall distribute
11 semiannually to the auditor of state as the state share for deposit in the
12 homeowner protection unit account established by IC 4-6-12-9 one
13 hundred percent (100%) of the automated record keeping fees collected
14 under IC 33-37-5-21 with respect to actions resulting in the accused
15 person entering into a pretrial diversion program agreement under
16 IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and



for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) The following:
 - (A) For a county operating under the state's automated judicial system, one hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
 - (B) This clause applies before July 1, 2013, and after June 30, 2015. For a county not operating under the state's automated judicial system, eighty percent (80%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).
 - (C) This clause applies after June 30, 2013, and before July 1, 2015. For a county not operating under the state's automated judicial system, five dollars (\$5) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(c) The clerk of a circuit court shall distribute monthly to the county



auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(e) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(f) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) or the successor statewide automated support enforcement system collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS or the successor statewide automated support enforcement system collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the department of child services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS, or the



1 successor statewide automated support enforcement system, collected
 2 under IC 33-37-5-6 that is not reimbursable to the county at the
 3 applicable federal financial participation rate.

4 (g) The clerk of a circuit court shall distribute monthly to the county
 5 auditor the following:

6 (1) One hundred percent (100%) of the small claims service fee
 7 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in
 8 the county general fund.

9 (2) One hundred percent (100%) of the small claims garnishee
 10 service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for
 11 deposit in the county general fund.

12 (h) This subsection does not apply to court administration fees
 13 collected in small claims actions filed in a court described in IC 33-34.
 14 The clerk of a circuit court shall semiannually distribute to the auditor
 15 of state for deposit in the state general fund one hundred percent
 16 (100%) of the following:

17 (1) The public defense administration fee collected under
 18 IC 33-37-5-21.2.

19 (2) The judicial salaries fees collected under IC 33-37-5-26.

20 (3) The DNA sample processing fees collected under
 21 IC 33-37-5-26.2.

22 (4) The court administration fees collected under IC 33-37-5-27.

23 (i) The clerk of a circuit court shall semiannually distribute to the
 24 auditor of state for deposit in the judicial branch insurance adjustment
 25 account established by IC 33-38-5-8.2 one hundred percent (100%) of
 26 the judicial insurance adjustment fee collected under IC 33-37-5-25.

27 (j) The proceeds of the service fee collected under
 28 IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as
 29 follows:

30 (1) The clerk shall distribute one hundred percent (100%) of the
 31 service fees collected in a circuit, superior, county, or probate
 32 court to the county auditor for deposit in the county general fund.

33 (2) The clerk shall distribute one hundred percent (100%) of the
 34 service fees collected in a city or town court to the city or town
 35 fiscal officer for deposit in the city or town general fund.

36 (k) The proceeds of the garnishee service fee collected under
 37 IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as
 38 follows:

39 (1) The clerk shall distribute one hundred percent (100%) of the
 40 garnishee service fees collected in a circuit, superior, county, or
 41 probate court to the county auditor for deposit in the county
 42 general fund.



(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the following:

(1) The mortgage foreclosure counseling and education fees collected under IC 33-37-5-32 (before its expiration on January 1, 2015).

(2) Any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(m) This subsection applies to a county that is not operating under the state's automated judicial system. The clerk of a circuit court shall distribute monthly to the county auditor the following part of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a) for deposit in the clerk's record perpetuation fund:

(1) Twenty percent (20%), before July 1, 2013, and after June 30, 2015.

(2) Two dollars (\$2) of each fee collected, after June 30, 2013, and before July 1, 2015.

(n) The clerk of a circuit court shall distribute semiannually to the auditor of state one hundred percent (100%) of the pro bono legal services fees collected before July 1, 2017, under IC 33-37-5-31. The auditor of state shall transfer semiannually the pro bono legal services fees to the Indiana Bar Foundation (or a successor entity) as the entity designated to organize and administer the interest on lawyers trust accounts (IOLTA) program under Rule 1.15 of the Rules of Professional Conduct of the Indiana supreme court. The Indiana Bar Foundation shall:

(1) deposit in an appropriate account and otherwise manage the fees the Indiana Bar Foundation receives under this subsection in the same manner the Indiana Bar Foundation deposits and manages the net earnings the Indiana Bar Foundation receives from IOLTA accounts; and

(2) use the fees the Indiana Bar Foundation receives under this subsection to assist or establish approved pro bono legal services programs.

The handling and expenditure of the pro bono legal services fees received under this section by the Indiana Bar Foundation (or its successor entity) are subject to audit by the state board of accounts. The



amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

(o) The clerk of a circuit court shall distribute monthly to the auditor of state one hundred percent (100%) of the court security fees collected under IC 33-37-5-33. The auditor of state shall transfer semiannually the court security fees to each county. The fees shall be distributed equally among the counties for deposit in each county's court security fund established under IC 33-37-13. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

SECTION 3. IC 33-37-7-8, AS AMENDED BY P.L.136-2012, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1 and for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).



(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21) not distributed under subsection (a).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under



1 IC 33-37-5-21.2.

2 (2) The DNA sample processing fees collected under
3 IC 33-37-5-26.2.

4 (3) The court administration fees collected under IC 33-37-5-27.

5 (h) The clerk of a city or town court shall semiannually distribute to
6 the auditor of state for deposit in the judicial branch insurance
7 adjustment account established by IC 33-38-5-8.2 one hundred percent
8 (100%) of the judicial insurance adjustment fee collected under
9 IC 33-37-5-25.

10 (i) The clerk of a city or town court shall semiannually distribute to
11 the auditor of state for deposit in the state general fund seventy-five
12 percent (75%) of the judicial salaries fee collected under
13 IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five
14 percent (25%) of the judicial salaries fee collected under
15 IC 33-37-5-26. The funds retained by the city or town shall be
16 prioritized to fund city or town court operations.

17 (j) The clerk of a city or town court shall distribute semiannually to
18 the auditor of state one hundred percent (100%) of the pro bono legal
19 services fees collected before July 1, 2017, under IC 33-37-5-31. The
20 auditor of state shall transfer semiannually the pro bono legal services
21 fees to the Indiana Bar Foundation (or a successor entity) as the entity
22 designated to organize and administer the interest on lawyers trust
23 accounts (IOLTA) program under Rule 1.15 of the Rules of
24 Professional Conduct of the Indiana supreme court. The Indiana Bar
25 Foundation shall:

26 (1) deposit in an appropriate account and otherwise manage the
27 fees the Indiana Bar Foundation receives under this subsection in
28 the same manner the Indiana Bar Foundation deposits and
29 manages the net earnings the Indiana Bar Foundation receives
30 from IOLTA accounts; and

31 (2) use the fees the Indiana Bar Foundation receives under this
32 subsection to assist or establish approved pro bono legal services
33 programs.

34 The handling and expenditure of the pro bono legal services fees
35 received under this section by the Indiana Bar Foundation (or its
36 successor entity) are subject to audit by the state board of accounts. The
37 amounts necessary to make the transfers required by this subsection are
38 appropriated from the state general fund.

39 **(k) The clerk of a city or town court shall distribute monthly to**
40 **the auditor of state one hundred percent (100%) of the court**
41 **security fees collected under IC 33-37-5-33. The auditor of state**
42 **shall transfer semiannually the court security fees to each county.**



The fees shall be distributed equally among the counties for deposit in each county's court security fund established under IC 33-37-13. The amounts necessary to make the transfers required by this subsection are appropriated from the state general fund.

SECTION 4. IC 33-37-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 13. Court Security Funds

Sec. 1. As used in this chapter, "fund" refers to a court security fund established under section 2(a) of this chapter.

Sec. 2. (a) A court security fund is established in each county.

(b) The fund may be used only to pay for the costs of installing, operating, maintaining, and upgrading security measures, plans, procedures, and systems in and around:

(1) courtrooms; and

(2) buildings that contain courtrooms; located in the county.

(c) The fund shall be administered by the county auditor.

(d) The fund consists of court security fees transferred to the county by the auditor of state under:

(1) IC 33-37-7-2(o); and

(2) IC 33-37-7-8(k).

(e) The expenses of administering the fund shall be paid from money in the fund.

